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RECORDATION NO. _____ Filed & Recorded

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INTERSTATE COMMERCE COMMISSION

AGREEMENT AND ASSIGNMENT, dated as of March 15, 1971,

GENERAL MOTORS CORPORATION (Electro-Motive Division) a Delaware corporation, (hereinafter sometimes called the Manufacturer), and

CITIZENS FIDELITY BANK AND TRUST COMPANY, LOUISVILLE, KENTUCKY, a corporation duly organized and existing under and by virtue of the laws of the State of Kentucky, (hereinafter sometimes called the Assignee).

WHEREAS the Manufacturer and KENTUCKY & INDIANA TERMINAL RAILROAD COMPANY, a Kentucky corporation (hereinafter sometimes called the Railroad), have entered into a Conditional Sale Agreement, dated as of March 15, 1971, (hereinafter called the Conditional Sale Agreement), covering the manufacture, sale and delivery, on the conditions therein set forth, by the Manufacturer and the purchase by the Railroad of Five (5) 1,500 horsepower Diesel-Electric switching locomotives (hereinafter called the Locomotives), bearing the Railroad's Road Nos. 72, 73, 74, 75, and 76, all as more particularly described therein (a counterpart of the Conditional Sale Agreement being prefixed hereto), for the purchase price of \$160,057.00 per locomotive, the said purchase price being subject to certain adjustments, all as more particularly described and set forth in the Conditional Sale Agreement; and

WHEREAS the Railroad is to pay to the Manufacturer an initial cash payment equal to so much, if any, of the purchase price of such Locomotive as shall exceed \$128,000 per Locomotive (such payment being hereinafter called the Initial Cash Payment) upon acceptance of such Locomotive by the Railroad, leaving a balance of \$128,000, (or the actual purchase price, whichever is the lesser), per Locomotive payable with interest as provided in the Conditional Sale Agreement;

NOW, THEREFORE, this Agreement and Assignment Witnesseth that, in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations paid by the Assignee to the Manufacturer, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

1. The Manufacturer hereby sells, assigns, transfers and sets over unto the Assignee, its successors and assigns, all the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement upon payment by the Assignee to the Manufacturer of the amounts required to be paid under paragraph numbered 5 hereof (except the right to manufacture and the right to receive the Initial Cash Payment, if any, payable in respect of the purchase price of each Locomotive) and in and to any and all amounts which may be or become due or owing to the Manufacturer on account of \$128,000.00 of the purchase price of each Locomotive, or the actual purchase price of each Locomotive, whichever is the lesser, and interest thereon and any other sums becoming due under the Conditional Sale Agreement in respect of the Locomotives (excluding the Initial Cash Payment, if any, which shall be paid by the Railroad to the Manufacturer), and also all right, title and interest of the Manufacturer in and to the Locomotives as the same shall be manufactured and delivered, together with all the Manufacturer's rights, powers, privileges and remedies in respect of the Locomotives under the Conditional Sale Agreement, without any recourse, however, against the Manufacturer for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with any of the provisions of, the Conditional Sale Agreement; provided, however, that this Agreement and Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the liability of the Manufacturer or of any successor or successors to its manufacturing properties and business in respect of its obligations to manufacture, sell and deliver the Locomotives or in respect of its obligations contained in Sections I, XI, and XII of the Conditional Sale Agreement, or relieve the Railroad from its obligations to the Manufacturer under Paragraph (2) of Sub-section (B) of Section II, Sub-section (C) of Section II, Sub-section (B) of Section IV, and Section XI of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Agreement and Assignment or any subsequent assignment pursuant to the provisions of Section 6 hereof, all said obligations of the Manufacturer to the Railroad in respect of the Locomotives shall be and remain enforceable by the Railroad, its

successors and assigns, against and only against the Manufacturer and any successor or successors to its manufacturing properties and business. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Assignee, in the Assignee's own name or in the name of the Assignee's designee or in the name of and as attorney, hereby irrevocably constituted, for the Manufacturer, to ask, demand, sue for, collect, receive and enforce payment of any and all sums to which the Assignee is or may become entitled under this Agreement and Assignment and compliance by the Railroad with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

2. The Manufacturer covenants and agrees that it will manufacture the Locomotives in full and complete accordance with the Conditional Sale Agreement and that it will sell and deliver the same on completion thereof to the Railroad free of all liens and encumbrances and in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Agreement and Assignment, it will perform and fully comply with each and all the covenants and conditions of the Conditional Sale Agreement, set forth to be performed and complied with by the Manufacturer. The Manufacturer further covenants and agrees that at the time of delivery of any Locomotive it will warrant to the Assignee and the Railroad that at such time it has legal title to such Locomotive and good and lawful right to sell such Locomotive and that the title to such Locomotive is free and clear of all liens and encumbrances of any nature except only the rights of the Railroad under the Conditional Sale Agreement; and the Manufacturer further covenants and agrees that it will defend the title to such Locomotive against the lawful demands of all persons whomsoever based on claims originating prior to the delivery of such Locomotive by the Manufacturer to the Railroad, all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Railroad thereunder.

3. The Manufacturer covenants and agrees with the Assignee that in

any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any installment of, or interest on, the purchase price or to enforce any provision thereof, the Manufacturer will save, indemnify and keep harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, set-off, counterclaim or recoupment of the Railroad arising out of a breach by the Manufacturer or by a successor or successors to its manufacturing properties or business of any of the Manufacturer's obligations in respect of the manufacture, sale and delivery of the Locomotives or under Sections I, XI, XII of the Conditional Sale Agreement or arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Manufacturer or such successor or successors. The Manufacturer agrees to save, indemnify and keep harmless the Assignee from and against any and all royalties payable, and any and all liabilities, damages, claims, suits, judgments, costs and expenses which may arise from patent infringement, incident to the sale or use of any article, process, design, element of construction, or any other invention used in the construction of the Locomotives or incorporated in the Locomotives, other than those excepted from the Manufacturer's indemnification agreement contained in Section XI of the Conditional Sale Agreement. The obligations of the Manufacturer under the provisions of this Section 3 are subject to the condition that the Manufacturer shall be given due notice of any such defense, set-off or counterclaim asserted by the Railroad or its successors or assigns and of the commencement of any action for any such infringement and shall be afforded a reasonable opportunity to defend against the same.

4. The Manufacturer covenants and agrees that, at or before delivery of each of the Locomotives to the Railroad, there will be plainly, distinctly, permanently and conspicuously placed and fastened on each side of each such Locomotive a metal plate bearing the words in letters not less than one inch in height:

CITIZENS FIDELITY BANK AND TRUST COMPANY
LOUISVILLE, KENTUCKY, OWNER

5. The Assignee covenants and agrees that, from time to time as and when any of the Locomotives are delivered to and accepted by, the Railroad pursuant to the Conditional Sale Agreement, it will promptly pay to the Manufacturer \$128,000 of the purchase price of each such Locomotive so delivered and accepted, or if the actual purchase price of any Locomotive is reduced below the aforesaid sum of \$128,000 pursuant to Sub-section (A) of Section II of the Conditional Sale Agreement, then the Assignee with promptly pay to the Manufacturer such actual purchase price of such Locomotive upon receipt by the Assignee of the following documents:

- (a) A Bill of Sale from the Manufacturer to the Assignee transferring to the Assignee title to each such Locomotive so delivered and accepted, and warranting to the Assignee and the Railroad that at time of delivery thereof by the Manufacturer to the Railroad said title was free and clear of all liens and encumbrances of any nature except only the rights of the Railroad under the Conditional Sale Agreement;
- (b) A Certificate of Acceptance in respect of each such Locomotive signed by an authorized representative of the Railroad stating that the Locomotive covered by such Certificate has been inspected and accepted by him on behalf of the Railroad as conforming in all respects to the requirements and provisions of the Conditional Sale Agreement and further stating that there was plainly, distinctly, permanently and conspicuously placed and fastened on each side of each Locomotive at the time of its acceptance a metal plate bearing the words in letters not less than one inch in height:

CITIZENS FIDELITY BANK AND TRUST COMPANY
LOUISVILLE, KENTUCKY, OWNER

- (c) Invoice covering each such Locomotive so accepted accompanied

by or having endorsed thereon a certification by the Railroad as to the correctness of the price of such unit or units as set forth in the invoice.

6. It is mutually agreed that the Assignee may assign its rights under the Conditional Sale Agreement as a whole or in part in respect of any one or more of the Locomotives, including the right to receive any payments due or to become due to it from the Railroad thereunder in respect of the Locomotives covered by such assignment. In the event of any such assignment any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

7. The Manufacturer hereby:

- (a) Represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was lawfully executed for a valid consideration and that it is a valid existing agreement and, according to its terms, binding upon the parties thereto and said agreement is now in force without amendments thereto; and
- (b) Covenants and agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance as may be

necessary and appropriate in the premises, to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

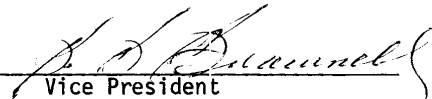
8. The terms of this Agreement and Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Kentucky; provided, however, that the parties hereto shall be entitled to all rights conferred by Section 20 (c) of the Interstate Commerce Act.

9. This Agreement and Assignment may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Railroad. Although this Agreement and Assignment is dated for convenience as of March 15, 1971, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

IN WITNESS WHEREOF, the Manufacturer and the Assignee have caused this instrument to be executed in their respective names by their respective officers, thereunto duly authorized, and their respective corporate seals to be hereto affixed, duly attested, as of the day and year first above written.


GENERAL MOTORS CORPORATION
(Electro-Motive Division)

By


Vice President



ATTEST:


Asst. Secretary

CITIZENS FIDELITY BANK AND TRUST
COMPANY

By *B. B. Brownell*
Vice President


ATTEST:

John A. Brenzel
Asst. Vice President

STATE OF ILLINOIS)
COUNTY OF COOK) SS

I, *J. H. Sawyer*, a Notary Public
duly commissioned, qualified and acting within and for the State and County do
hereby certify that on *March 12, 1971*, before me the
subscriber, a Notary Public as aforesaid, personally appeared in said County of
Cook, *B. B. Brownell*, a Vice President of General
Motors Corporation (Electro-Motive Division), one of the corporations which
executed the foregoing instrument in writing bearing date of March 15, 1971,
whose name is signed thereto, and said *B. B. Brownell*,
who is personally well-known to me as Vice President of General Motors Corpora-
tion and being by me duly sworn, and I having first made known to him the
contents of said instrument, did depose and say that he resides at _____
La Grange Park, Illinois, that he is Vice President of said
General Motors Corporation, one of the corporations described in said foregoing
instrument, authorized by said corporation to execute and acknowledge deeds and
other writings of said corporation; that he knows the contents of said instru-
ment; that he knows the seal of said corporation; that one of the seals affixed
to said instrument is the corporate seal of said corporation; that said instrument
was signed, sealed and delivered by him as Vice President in behalf of said cor-
poration by its authority, duly given, and by authority of its Board of Directors;
and that he acknowledged said foregoing instrument to be the free and voluntary
act and deed of said General Motors Corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal the day and year aforesaid.

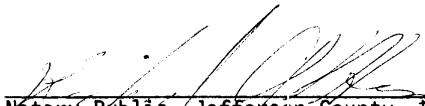

Notary Public
My Commission expires October 28, 1971

STATE OF KENTUCKY)
) SS
COUNTY OF JEFFERSON)

I, Richard A. Hess, a Notary Public duly commissioned, qualified and acting within and for the State and County aforesaid, do hereby certify that on March 15, 1971, before me, the subscriber, a Notary Public as aforesaid, personally appeared in said Jefferson County, E. L. Tomppert, Vice President of CITIZENS FIDELITY BANK AND TRUST COMPANY, one of the corporations which executed the foregoing instrument in writing bearing date of March 15, 1971, whose name is signed thereto, and said E. L. Tomppert, who is personally well known to me as Vice President of said Citizens Fidelity Bank and Trust Company and being by me duly sworn, and I having first made known to him the contents of said instrument, did depose and say that he resides at 204 Dorchester Road, Louisville, Kentucky; that he is Vice President of said Citizens Fidelity Bank and Trust Company, one of the corporations described in said foregoing instrument, authorized by said corporation to execute and acknowledge deeds and other writings of said corporation; that he knows the contents of said instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is the corporate seal of said corporation; that said instrument was signed, sealed and delivered by him as Vice President in behalf of said corporation by its authority, duly given,

and by authority of its Directors; and that he acknowledged said foregoing instrument to be the free and voluntary act and deed of said Citizens Fidelity Bank and Trust Company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal the day and year aforesaid.


Notary Public, Jefferson County, Ky.
My Commission Expires ~~Notary Public, Jefferson County Ky.~~
My commission expires July 31, 1994.
Notary Public, Jefferson County Ky.
My commission expires July 31, 1994.